



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,676	08/15/2001	Anatolii Fel	DT-3905	4692

30377 7590 02/02/2004

DAVID TOREN, ESQ.  
SIDLEY, AUSTIN, BROWN & WOOD, LLP  
787 SEVENTH AVENUE  
NEW YORK, NY 10019-6018

EXAMINER

COOLEY, CHARLES E

ART UNIT PAPER NUMBER

1723

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/806,676

Applicant(s)

FEL, ANATOLII

Examiner

Charles E. Cooley

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,6 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-9 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of Species A and sub-species A is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 3, 5, 6, and 9 are thereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Claims 1, 2, 4, 7, and 8 are elected and are treated on the merits in this office action.

### ***Priority***

3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). None of the CERTIFIED copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

### ***Specification***

4. The disclosure is objected to because of the following informalities:
  - a. the many references to the features of particular claims throughout the specification are improper (e.g., see page 1, first paragraph, page 2, third full paragraph, page 3, first and second full paragraphs, etc.) because the specification should positively recite the features of the claims rather than

Art Unit: 1723

inferentially referring to subject matter of a particular claim through incorporation by reference thereto.

Appropriate correction is required.

5. The title of the invention and abstract are acceptable.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Latham, Jr. (US 4,303,193).

The patent to Latham, Jr. (US 4,303,193) discloses in Fig. 7 an imbalance compensator used in a centrifuge environment including a compensating ring 125 which is supported concentrically by an elastic bearing device constructed as an elastic ring 124; a rotor 94 with a drive shaft 112; wherein the compensating ring 125 and the elastic ring 124 are mounted on the outer surface of the shaft (Fig. 7); the elastic ring being constructed as an elastomeric ring which may include elastomeric foam (col. 12, lines 11-18); the parts of the imbalance compensator being connected with each other as seen in Figure 7.

Art Unit: 1723

8. Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook (US 2,556,317).

The patent to Cook discloses in Figs. 1-3 an imbalance compensator used in a centrifuge environment including a compensating ring 23 or 26 which is supported concentrically by an elastic bearing device constructed as an elastic ring 18; a rotor (col. 1, lines 1-8) with a drive shaft 13; wherein the compensating ring 23 or 26 and the elastic ring 18 are mounted on the outer surface of the shaft (Fig. 3); the parts of the imbalance compensator being connected with each other as seen in Figure 3.

9. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nilsson et al. (US 5,800,070).

The patent to Nilsson et al. discloses in Figs. 1-4 an imbalance compensator used in a centrifuge environment including a compensating ring 14 or 15 which is supported concentrically by an elastic bearing device constructed as an elastic ring 8; a rotor 5 with a drive shaft 1; wherein the compensating ring 14 or 15 and the elastic ring 8 are mounted on the outer surface of the shaft (Fig. 1); the elastic ring may be constructed as an elastomeric ring (col. 4, lines 23-27); the parts of the imbalance compensator being connected with each other as seen in Figures 3-4.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 1723

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nilsson et al. (US 5,800,070) in view of Kun et al. (US 4,900,165).

Nilsson et al. suggests that the imbalance compensator may employ an elastic member such as a rubber element but does not disclose the recited elastomeric foam material. The patent to Kun et al. discloses a bearing loading compensation system (Fig. 2) used in high speed rotating machinery which employs rubber or plastic which may take the configuration of elastomeric foam. In view of the suggestion in Nilsson et al., it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have substituted the elastic member in Nilsson et al. with an elastomeric foam material as taught by Kun et al. for the purpose of imparting high damping characteristics to the compensation system (col. 3, lines 29-43).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art discloses vibration/imbalance compensation devices.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (571) 272-1139. The examiner can normally be reached on Mon-Fri.

Art Unit: 1723

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

A handwritten signature in cursive script, appearing to read "Charles E. Cooley".

Charles E. Cooley  
Primary Examiner  
Art Unit 1723

21 January 2004